



**FILED**

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**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Southern California Gas Company, San Diego Gas & Electric Company and Southern California Edison Company for Approval of Changes to Natural Gas Operations and Service Offerings.

Application 06-08-026  
(Filed August 28, 2006)

**ADMINISTRATIVE LAW JUDGE'S RULING DENYING SOUTHERN CALIFORNIA GENERATION COALITION MOTION TO STRIKE**

By this ruling, the motion of the Southern California Generation Coalition (SCGC) to strike a portion of testimony submitted in this proceeding by Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) is denied.

Specifically, SCGC moves to strike testimony supporting a proposal that SoCalGas and SDG&E shareholders be permitted to retain 10% of interruptible access revenues subject to a \$5 million annual cap. This proposal is contained in the Prepared Direct Testimony of Reginald M. Austria as follows:

Pursuant to the Edison Settlement, interruptible access charges shall be 100% balanced to the extent of eliminating any undercollection in each utility's ITBA by the end of the calendar year and 90% balanced for any remaining interruptible access revenues. The remaining 10% shall be allocated to utility shareholders subject to a \$5 million annual cap which is applicable to the combined interruptible access revenues from SoCalGas and SDG&E. (Prepared Direct Testimony of Reginald M. Austria at 5:9-15 (Aug. 28, 2006).)

Mr. Austria testifies further:

The 10% shareholder incentive of interruptible access revenues shall be an exclusion in determining sharable earnings under each utility's PBR sharing mechanism. (*Id.* at 5:20-22.)

Mr. Austria appends to his testimony a Preliminary Statement description of the SoCalGas Integrated Transmission Balancing Account (ITBA).

SCGC moves to strike on the basis that the Commission has previously considered and rejected a similar proposal in D.06-12-031, as discussed on pages 91-92 therein. SCGC notes that no party filed an application for rehearing or a petition for modification of the Commission's rejection of the 90-10 sharing mechanism.

Since the Commission specifically addressed and resolved the proposal in D.06-12-031, SCGC believes that the parties should be relieved of the burden of relitigating the issue in this instant proceeding. Therefore, SCGC moves to strike the testimony of SoCalGas/SDG&E witness Austria at 5:9-15 and 5:20-22, and the proposed descriptions of the SoCalGas and SDG&E ITBAs that are appended to Mr. Austria's testimony.

SoCalGas, SDG&E, and Southern California Edison (Joint Applicants) filed a response opposing the motion on March 22, 2007. Joint Applicants dispute the premise of SCGS's motion that once the Commission takes a position on a particular issue, utilities and other interested parties may not advocate a different position in a later proceeding. Applicants argue that SCGS's premise is contrary to Commission precedent, Commission practice, and common sense. Applicants claim that SCGC has, itself, previously argued positions despite numerous Commission decisions that were contrary to those positions.

Applicants argue that the testimony proposing a change to existing Commission policy regarding the treatment of interruptible access charges is warranted in light of the other proposed changes to SoCalGas' and SDG&E's product and service offerings presented in the application.

### **Discussion**

The motion to strike is denied. Although the proposal for a 90/10 sharing incentive mechanism for interruptible transmission revenues was considered and rejected in D.06-12-031, the proposal in this proceeding is offered as one of a range of proposed changes to SoCalGas' and SDG&E's product and service offerings. Therefore, the context for the proposal being advocated in this proceeding is different than that which was underlying D.06-12-031. The Joint Applicants should have the opportunity to advocate the proposal here, and offer relevant justification in the context of the record in this proceeding. Opposing parties are free to argue that the reasons relied upon by the Commission to reject the proposal in D.06-12-031 also warrant rejection here, taking into account the context of this proceeding. The Commission will resolve the issue based on a complete record.

**IT IS RULED** that the motion of Southern California Generation Coalition is hereby denied.

Dated April 9, 2007, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer  
Administrative Law Judge